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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,741	03/22/2001	Bruno Messmer	1141188-3/DU	6555
22850	7590	11/02/2006	EXAMINER	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			PHAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,741

Applicant(s)

MESSMER, BRUNO

Examiner

Joseph T. Phan

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-23, 26-30, 33-42 and 44-47 is/are rejected.
- 7) ☒ Claim(s) 24, 25, 31, 32 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-23, 26-30, 33-42, 44-47 rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg, Patent #6,075,844 in view of Culbreth et al., Patent #5,953,393.

Regarding claims 19, 28 and 36 Goldberg teaches a method of handling spoken messages, a message exchange, and computer-readable data carrier connected to a public switched telephone network including a plurality of subscribers comprising:

an address module configured to store a plurality of lists with subscriber identifications, each list being assigned to at least one of the subscribers (124 fig.1, col.5 lines 32-54, and col.9 lines 5-12)

a receiving module configured to receive a spoken message from one of the subscribers in the telephone network via the telephone network, the one of the subscribers being a transmitting subscriber, and to store the spoken message with an identification of the transmitting subscriber(Fig.1, col.4 lines 29-46, and col.5 lines 15-31);

a speech recognition module configured to enable the transmitting subscriber to designate by means of spoken language at least one of the other subscribers as an addressee to whom the spoken message is addressed (Fig.1,col.3 lines 55-65 and col.4 lines 20-28) and

configured to enable the transmitting subscriber to edit the list assigned to the transmitting subscriber by means of spoken language(*col.6 lines 9-34 and col.7 lines 60-67; "by means of spoken language" can be read as the means(system) used to speak, does not have to require speech recognition*).

a transmission module configured to enable the transmitting subscriber to designate by means of spoken language at least one of the other subscribers as an addressee to whom the spoken message is addressed(Fig.1,col.3 lines 55-65 and col.4 lines 20-28);

a transmission module configured to transmit the stored message by means of an automatic call to the addressee(col.5 lines 32-40).

Goldberg does not expressly disclose inquiring if a reply is to be sent from the addressee to the transmitting subscriber and a reply module configured to receive and to store the reply from the addressee but does disclose prompting the recipient the capability of the system to receive a reply(col.4 lines 51-54 and col.7 lines 1-28).

Culbreth discloses inquiring if a reply is to be sent from the addressee to the transmitting subscriber and a reply module configured to receive and to store the reply from the addressee (130 Fig.1, 230 Fig.2, and col.4 line 35-col.5 line 49).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Goldberg to include Culbreth's means and method of receiving and storing a reply from the addressee as taught(col.4 line 35-col.5 line 49).

One of ordinary skill in the art would have been motivated to do this as Goldberg already establishes a system that is capable of sending a message and insinuates discussing a matter further(col.4 lines 51-54) and Culbreth merely furthers this insinuation as a reply from the recipient(Fig.1 and col.4 line 35-col.5 line 49) and therefore easily motivated to modify Goldberg's prompting system.

Regarding claim 20, Goldberg in view of Culbreth teaches the message exchange according to claim 19, wherein the speech recognition module is further configured to enable the transmitting subscriber to create and administer the at least one of the lists by means of spoken language (col.3 lines 55-65).

Regarding claim 21, Goldberg in view of Culbreth teaches the message exchange according to claim 19, wherein each subscriber identification includes a name of the one of the subscribers(col.4 lines 20-28).

Regarding claim 22, Goldberg in view of Culbreth teaches the message exchange according to claim wherein each subscriber identification includes a call number of the one of the subscribers(col.4 lines 29-46).

Regarding claim 23 Goldberg in view of Culbreth teaches the message exchange according to claim wherein at least one of the subscriber identifications are stored as a voice signal(col.4 lines 20-28).

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Regarding claim 26, Goldberg in view of Culbreth teaches the message exchange according to claim 19 wherein the reply module is configured to receive a reply from the addressee, and to store and transmit the reply to at least the transmitting subscriber(col.7 lines 1-29).

Regarding claim 27, Goldberg in view of Culbreth teaches the message exchange according claim 19, wherein at least one of the lists contains access rights(120 Fig.1).

Regarding claim 29, Goldberg in view of Culbreth teaches the method according to claim 28, wherein at least one of the subscriber identifications are stored as a voice signal(col.4 lines 20-28).

Regarding claim 30, Goldberg in view of Culbreth teaches the method according to Claim 28 further comprising: storing status information concerning the transmission of the spoken message to the addressee: and retransmitting the spoken message if it is not successfully transmitted during a first attempt(col.7-col.8 all).

Regarding claim 33 Goldberg in view of Culbreth teaches the method according to claim 28 further comprising transmitting the spoken message via the Internet(col.9 lines 13-28).

Regarding claim 34, Goldberg in view of Culbreth teaches the method according to claim 28 further comprising: receiving the reply from the addressee; storing the reply in the message exchange and transmitting the reply to at least the transmitting subscriber(col.7 lines 1-65).

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Regarding claim 35, Goldberg in view of Culbreth teaches the method according to claim 28, wherein the transmitting subscriber administers at least one of the lists by means of spoken language(col.3 lines 55-65).

Regarding claim 37, Goldberg in view of Culbreth teaches the message exchange of claim 19, wherein the addressee is a group of the subscribers associated with the common group identification(col.9 lines 5-12)

Regarding claim 38, Goldberg in view of Culbreth teaches the method of claim 19, wherein the receiving module is further configured to determine an address of the addressee based on identification of the transmitting subscriber and on one of the plurality of lists corresponding to the transmitting subscriber(col.9 lines 5-12).

Regarding claim 39, Goldberg in view of Culbreth teaches the computer-readable data carrier of claim 28, further comprising: determining an identification of the transmitting subscriber(col.9 lines 5-12).

Regarding claim 40, Goldberg in view of Culbreth teaches the method of claim 28, wherein the identifying further includes determining an address of the addressee based on the identification of the transmitting subscriber and on one of the plurality of lists corresponding to the transmitting subscriber(col.7 lines 1-65 and col.9 lines 5-12).

Regarding claim 41, Goldberg in view of Culbreth teaches the computer-readable data carrier of claim 36, wherein when said computer program is executed, the message exchange further performs: determining an identification of the transmitting subscriber(col.7 lines 1-65 and col.9 lines 5-12).

Regarding claim 42, Goldberg in view of Culbreth teaches the computer-readable data carrier of claim 36, wherein when said computer program is executed, the message exchange further performs: determining one of the plurality of lists that corresponds to the transmitting subscriber based on the identification of the transmitting subscriber(col.7 lines 1-65 and col.9 lines 5-12).

Regarding claim 44 Goldberg in view of Culbreth teaches the method according to claim 19, wherein the address module is further configured to be accessed via the internet to edit the plurality of lists (col.9 lines 13-28).

Regarding claims 45-47 Goldberg in view of Culbreth teaches a method of handling spoken messages according to claims 28 and 36, wherein the reply module to receive the reply from the addressee is sent by the addressee by means of spoken guidance(col.7 lines 1-65 and col.9 lines 5-12).

Response to Arguments

2. Applicant's arguments filed 03/06/06 have been fully considered but they are not persuasive. It is noted that the amended limitation of "*to edit the list...by means of spoken language*" does not further narrow the limitation since the phrase "*by means of spoken language*" can be read merely as the means(system) used to speak, the phrase does not require editing by speech recognition.

The means used to speak in Goldberg is taught in col.9 lines 25-29(i.e. message transmission system, or telephone, or sending party's personal computer).

Allowable Subject Matter

3. Claims 24-25, 31-32, and 43 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Further in view of the limitations provided in the independent claims, the prior art of record, alone or in combination, does not further teach at least one tariff table nor table with statistical information on the traffic load in the telephone network, wherein the spoken message is transmitted at an economical tariff time or at a time of low traffic load based on the stored information in the table.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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